



USED ESSA Non-Regulatory Guidance for Title III

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LEAs Legal Obligations under Title VI of Civil Rights Act and Equal Educational Opportunities Act (EEOA)



Legal Obligations of Districts to ELs under Title VI of the Civil Rights Act and EEOA

Local Education Agencies (LEAs) must ensure that ELs can participate meaningfully and equally in educational programs and services:

- Identify and assess all potential EL students in a timely, valid, and reliable manner
- Provide EL students with a language assistance program that is educationally sound and proven successful
- Provide sufficiently well prepared and trained staff and support the language assistance programs for EL students
- Ensure that EL students have equal opportunities to meaningfully participate in all curricular and extracurricular activities
- Avoid unnecessary segregation of EL students



Legal Obligations of Districts to ELs under Title VI of the Civil Rights Act and EEOA

- Ensure EL students suspected of having a disability under IDEA or Section 504 are identified, located, and evaluated in a timely manner
- Meet the needs of EL students who opt out of language assistance programs
- Monitor and evaluate EL students
- Exit EL students from program when they are proficient in English
- Monitor exited students
- Evaluate the effectiveness of a school district's language assistance program
- Ensure meaningful communication with limited English proficient parents



Office of English Language Acquisition (OELA) Tool Kit

- Chapter 2 of the OELA Tool Kit provides a checklist to assist with providing appropriate EL services and programs.





Title III to Title I Changes

Moved from Title III to Title I

Several provisions relevant to ELs have moved from Title III to Title I Part A (Title I) of the ESEA.

State activities that have moved to Title I include:

- Establishment of ELP goals and indicators for accountability purposes (1111(c)(4)(A)(ii), 1111(c)(4)(B)(iv))
- Identification for interventions to address ELs' academic achievement and progress in attaining ELP (1111(c)(4)(C)(iii), 1111(c)(4)(D))

LEA activities that have moved to Title I include:

- EL parental notification regarding LIEPs and related information (1112(e)(3))
- Parental participation (regular EL parent meetings) (1116(f))
- Reporting to the State on the number and percentage of ELs achieving ELP (1111(h)(2))



Several ESEA provisions regarding ELs have moved from Title III to Title I

Each State required to monitor LEAs and ensure Title III Subgrants are spent in a manner consistent with Federal law and guidelines.

- ▶ Title III provisions prohibit supplanting of other Federal, State, and local funds. (Section 3115(g)).
- ▶ Title III funds cannot be used to fulfill an LEA's obligations under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act (EEOA).





Supplement-not-Supplant

Title III

Fiscal Issues - Supplement-not-Supplant



- ▶ Some State and LEA EL-related activities have moved from Title III to Title I, including accountability for ELs.
- ▶ LEAs may still use Title III funds for EL-related activities previously required under Title III and now required under Title I as long as:
 - use of funds are “reasonable and necessary costs;”
 - funds supplement the LEA’s civil rights obligations to ELs under Title VI and the EEOA; and
 - LEA is using Title III funds to conduct 3 required activities under Title III.

Supplement-not-Supplant

States may not use Title III funds to develop the annual English language proficiency (ELP) assessment.

- LEAs may not use Title III funds to administer the annual ELP assessment.
- LEAs may not use Title III funds for purposes relating to identification of ELs.



QUICK REFERENCE SHEET: A-C-R-E QUESTIONS SUPPLEMENTAL or SUPPLANTING *TITLE III* FUNDS)



	STANDS FOR . . .	WHAT OTHER QUESTION DO I ASK?
A	All students?	What is the instructional program/service provided to all students?
C	Civil rights?	What does the LEA do to meet civil rights requirements?
R	Regulations?	What services is the LEA required to provide, according to other federal, state and local laws or regulations?
E	Existed previously?	Was the program/service previously provided with state, local and other federal funds?

Use of Title III funds for translation and interpretation under ESSA

- The use of Title III funds for translation and interpretation has not become allowable under the ESSA.
- Title III funds must supplement, not supplant, State, local, and other Federal funds. Title III funds cannot be used to fulfill an LEA's obligation under Title VI of the Civil Rights Act of 1964 and the Equal Educational Opportunities Act.
- Title III funds may be used to supplement an LEA's activities if the LEA is already meeting its obligation to ensure meaningful communication with LEP parents in a language they can understand.



All LEAs have language assistance obligations to LEP parents under Title VI and the EEOA. LEAs must:

- Ensure meaningful communication with LEP parents in a language they can understand and adequately notify LEP parents of information about any program, service, or activity of an LEA that is called to the attention of non-LEP parents.
- Provide language assistance to LEP parents effectively with appropriate, competent staff or appropriate and competent outside resources.
- Develop and implement a process for determining whether parents are LEP and what their language needs are.



Title III funds for staffing

- Title III staff must provide supplemental language instruction educational services to EL students.
- Title III funds may be used to hire staff to coordinate Title III activities, program and services, up to the maximum 2% permitted for administrative costs.
- All Title III language instruction educational program staff must be certified ESL or bilingual education teachers.
- Trained supportive personnel may only be funded under Title III to provide specific services to EL students before- or after-school or during an extended day.
- Trained supportive personnel, including Teaching Assistants, may be funded under Title III to provide supplemental language instructional education services.
- Secretarial or clerical positions may be funded under Title III to support Title III activities, programs and services after normal school hours or beyond the regular school hours.





Required Title III Activities

LEA Activities - Title III Formula Subgrants

LEA Required Activities:

1. *Effective* high-quality language instruction educational program
2. *Effective* high-quality professional development
3. Providing and implementing other *effective* activities and strategies that enhance or supplement language instruction educational programs, which must include parent, family, and community engagement activities (Section 3115(c))



Title III Formula Subgrants



Authorized LEA Uses

- Upgrading program objectives
- Providing community participation programs, family literacy services, and parent and family outreach and training to ELs and their families
- Providing tutorials
- Improving the instruction of ELs

New LEA Uses Under ESSA

- Improving the instruction of ELs, which may include ELs with a disability, through developing educational technology
- Offering early college high school or dual/concurrent enrollment programs
- developing or implementing LIEPs in preschools

Fiscal Issues LEA Administrative Costs

2% cap on LEA funds for administrative costs –
for direct administrative costs

- LEAs may consolidate Title III funds in a schoolwide program.
- LEAs may combine Title I and Title III funds for the same EL-related purpose.



English Language Proficiency (ELP) Standards

Under both ESSA and NCLB, a State is required to adopt ELP standards that correspond to the State's academic content standards. Title I, section 1111(b)(1)(F)

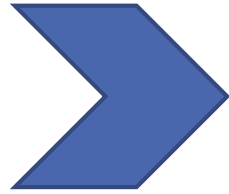
- Kentucky - WIDA English Language Development (ELD) Standards
- [KY Intro to ELD Standards Webinar](#)



Language Instruction Educational Program (LIEP)

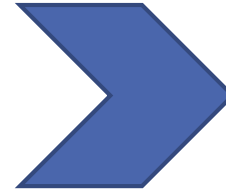
Purpose

To attain English proficiency



Why?

In order for ELs to meet challenging State academic content



How?

May be through Instructional use of both English and a child's native language



Language Instruction Educational Programs (LIEPs)

LIEPs must be *effective*. (replaces “scientifically based”)

- LEAs may select any LIEP that is *effective* and is consistent with Federal laws.
- LEAs are required under Title VI and the EEOA to provide a language assistance program that is effective, and LEAs must use *Title III to supplement, not supplant* funds used to meet this obligation.
- States must monitor and support LEAs so they implement effective strategies.
- LEAs must provide for equitable participation of eligible private school students, teachers, and other educational personnel.



Criteria for “effective” LIEPs

At a minimum, LIEPs should be outcomes-driven

- Driven by data on the unique needs of ELs
- Aligned with local needs identified through timely and meaningful consultation with stakeholders and examination of data
- Based on rigorous, relevant research on what instructional approaches are proven effective for promoting English language proficiency and high academic achievement
- Examined through performance monitoring, and if appropriate, evaluation, in order to make changes to improve LIEP implementation and effectiveness
- Included as part of a systemic approach to serving ELs, based on the state’s ELP standards and its academic content standards



Common EL programs considered educationally sound -

- (1) English as a Second Language (ESL) or English Language Development (ELD)
 - (2) Structured English Immersion (SEI)
 - (3) Transitional Bilingual Education (TBE) or Early- Exit Bilingual Education
 - (4) Dual Language or Two- Way Immersion.
- ▶ The first two programs are usually taught in English, and the latter two are taught both in English and in the EL's primary language.
 - ▶ For new arrivals and students with interrupted formal education (SIFE), districts may establish Newcomer programs.



Educators of ELs



- LEAs must use Title III funds for *effective* professional development for teachers and principals of ELs.
- Preparation and professional development programs for teacher of ELs should be based on the highest available level of evidence and measured for effectiveness.
- Title III funds may be used for supplemental staff to support ELs as long as LEA has already met its civil rights obligations.

Districts/consortiums must use Title III funds to provide *effective* professional development for teachers and principals of ELs:

PD activities must be sustained (*not stand-alone, 1-day, or short term workshops*), intensive, collaborative, job-embedded, data-driven, and classroom-focused

- Designed to improve the instruction and assessment of ELs;
- Designed to enhance the ability of teachers and principals to understand and implement curricula, assessment measures and practices, and instructional strategies for ELs;
- *Effective* in increasing children's English language proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of teachers of ELs; and
- Of sufficient intensity and duration to have a positive and lasting impact on the teachers' performance in the classroom.
 - This does not include one-day or short-term events, unless as part of a teacher's comprehensive professional development plan that is based on a needs assessment.



Parent, Family, and Community Engagement

- ▶ Title I now requires LEAs that receiving Title I Subgrants implement an effective means of outreach to parents of ELs.
 - Outreach must include holding, and sending notice of opportunities for, regular meetings in order to gather and respond to recommendations from parents.
- ▶ LEAs receiving Title III formula Subgrant must conduct parent, family, and community engagement.



Parent, Family, and Community Engagement

LEA required parental notification on child's identification as an EL and placement in an LIEP

- No later than 30 *calendar* days – beginning of school year
- Within 2 weeks of placement in an LIEP for students who enroll after the start of the school year
- Parents of ELs may decline to enroll in or have the student removed from an LIEP.
 - ✓ Parental decision must be knowing and voluntary.
 - ✓ LEA must still meet Title VI and EEOA obligations.
 - ✓ Child must still be annually assessed for English language proficiency.



LEA use Title III funds for English as a Second language (ESL) classes for families of ELs

An LEA may use Title III funds for ESL classes for families of ELs under certain conditions. The LEA:

1. must carry out all of the three required activities for Title III Subgrants: LIEP; professional development; and parent, family and community engagement.
 2. must ensure that this activity is supplemental in the use of local, State, and other Federal funds.
 3. may offer these classes to families of ELs (not families of non-ELs.)
- Note that all supplement, not supplant determinations for expenditures under Title III are fact-specific, and should be made on a case-by-case basis.



Definition of families

USED guidance defines families as -

- ▶ possibly including relatives involved in the social, emotional, and academic support of the student and expanding beyond parents and guardians
 - siblings, grandparents, aunts, uncles, cousins and others.
- ▶ Important to consider the family situation of foster youth, unaccompanied children, and others whose “family” network may extend beyond biological relatives.



LEAs use of Title III funds for the parental notification on EL identification that is now required under Title I, Part A

LEAs may use Title III funds for activities relating to ELs that were previously required under Title III and are now required under Title I as long as:

- Specific use of funds is consistent with the purpose of Title III and meets Federal guidelines for “reasonable and necessary costs”;
- Specific use of funds is supplemental to the LEA’s civil rights obligations to ELs under Title VI and the EEOA; and
- LEA is also using Title III funds to conduct 3 required activities under Title III (ESEA Section 3115(c)).



Program Service Plan (PSP)

The parental notification must include:

- The reason for identification of the child as an EL;
- The child's level of English language proficiency, how the level was assessed, and the status of the child's academic achievement;
- Methods of instruction used in the program in which the child is, or will be, participating;
- How the program will meet the educational strengths and needs of the child;
- Exit requirements for the program;
- In the case of a child with a disability, how the program meets the annual goals in the child's individualized education program (IEP); and
- Information regarding parents' right to withdraw the child from a program upon their request, and to decline enrollment or choose another program or method of instruction, if available.



Parent's right to decline services or types of services

- ▶ Districts must provide written notification to parents of ELs information pertaining to the right of parents to have their child removed from the LIEP or to decline to enroll in such program.
- ▶ The notice and information provided must be in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand.
- ▶ If parents decline and an EL is not participating in the LIEP, the LEA still has the obligation under Title VI and EEOA
 - to take “affirmative steps” and “appropriate action” to provide the student with access to its educational programs.
 - The district still must assess *all* ELs using the annual English language proficiency assessment, including those students whose parents have declined to enroll them in, or had them removed from, LIEPs.



Reporting and Data Collection



Districts must report:

- Title III programs and activities
- Number and percentage of ELs making progress toward English language proficiency
- Number and percentage of ELs who attain proficiency and exit LIEPs
- Number and percentage of former ELs who meet academic content standards (for 4 years)
- Number and percentage of ELs who have not exited LIEPs after 5 years as an EL
- Any other information required by the SEA

A district must disaggregate by English learners with disabilities



Title III Subgrants

Qualifying for Title III funds:



▶ Minimum of \$10,000

- Federal allocation/total EL count = per EL student amount

▶ Consortium option

- The LEA fiscal agent provides consortium-wide services, such as professional development and supplemental instructional materials, directly to all LEAs in the consortium.
- The LEA fiscal agent enters into a contract with another entity to provide services to all of the member LEAs.
- The LEA fiscal agent distributes a portion of the consortium's allocation to each member LEA based on the number of ELs in each LEA.



Title III Immigrant Subgrants

Immigrant Children & Youth



- (A) are aged 3 through 21;
- (B) were not born in any State; and
- (C) have not been attending one or more schools in any one or more States for more than 3 full academic years. Section 3201(5)

Note that “State” is defined in Section 3201(13) of the ESEA to include the 50 States, the District of Columbia, and Puerto Rico.

Therefore, students born in Puerto Rico may not be included as “immigrant” students under Title III.

Immigrant Children & Youth Subgrants



Awarded to one or more LEAs that have experienced a “significant increase” in the percentage or number of immigrant children and youth, as compared to the two preceding fiscal years. (ESEA Section 3114(d)(1))

- State may choose whether to use an increase in the percentage or number of immigrant children
- ESSA requires a State to consider the current fiscal year’s data as compared to the average of the two preceding fiscal years

Use of Immigrant Subgrant Funds



Activities may include -

- Family literacy, parent *and family* outreach, and training activities designed to assist parents *and families* to become active participants in the education of their children;
- *Recruitment of* and support for personnel, including teachers *and paraprofessionals* who have been specifically trained, or are being trained, to provide services to immigrant children and youth;
- Provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;
- Identification, *development*, and acquisition of curricular materials, educational software, and technologies to be used in the program;
- Basic instruction services that are directly attributable to the presence of immigrant children and youth in the LEA, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;
- Other instruction services that are designed to assist immigrant children and youth to achieve in elementary and secondary schools in the U.S., such as programs of introduction to the educational system and civics education; and
- Activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents *and families* of immigrant children and youth by offering comprehensive community services.

Resources

- ▶ [KDE ESSA webpage](#)
- ▶ [Commissioner's Steering Committee](#)
- ▶ [KDE ESSA Workgroups](#)

